

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
High-Cost Universal Service Support)	WC Docket No. 05-337

**JOINT COMMENTS OF
AST TELECOM, LLC D/B/A BLUESKY COMMUNICATIONS,
CHOICE COMMUNICATIONS, LLC AND PR WIRELESS**

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SUMMARY

The people of American Samoa, Puerto Rico, and the U.S. Virgin Islands, as well as the territories of Guam and the Commonwealth of the Northern Mariana Islands, are faced with unique geographic, economic and social conditions that present distinct challenges to the provision of voice and broadband service.

Specifically, the geographic isolation, difficult terrain and severe tropical weather result in extraordinarily high telecommunications infrastructure construction and maintenance costs. Depressed economic and business conditions thwart efforts to maintain basic wireless service and inhibit investment in new technologies. Substantial low-income populations and widespread poverty prevent access to telephone service, severely limiting societal advancement.

The totality of these circumstances has resulted in extremely low subscriber penetration rates in insular areas for more than a decade, leaving these communities without the same availability of modern telecommunications found on the mainland U.S. Although the Commission has previously failed to comply with its statutory obligation to remedy this disparity, the unique circumstances in insular areas must finally be recognized and treated differently when it comes to USF reform.

The Commission should significantly enhance high-cost support by providing an exemption for wireless carriers serving insular areas that restores high-cost support to pre-March 2008 levels, or, at a minimum, continue to provide the existing levels of high-cost support until such time as there is reliable evidence that the quality of service and choices in telecommunications providers in insular areas is comparable to those on the U.S. mainland. Such

a step would help address the significant lack of accessible and affordable voice and broadband service in insular areas.

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Connect America Fund)	WT Docket No. 05-265
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
High-Cost Universal Service Support)	WC Docket No. 05-337

**JOINT COMMENTS OF
AST TELECOM, LLC D/B/A BLUESKY COMMUNICATIONS,
CHOICE COMMUNICATIONS, LLC AND PR WIRELESS**

AST Telecom, LLC d/b/a BlueSky Communications (“BlueSky”), Choice Communications, LLC (“Choice Communications”) and PR Wireless (collectively referred to herein as the “Companies”), by their counsel, hereby submit these comments, pursuant to the Commission’s Notice of Inquiry and Notice of Proposed Rulemaking in the above-captioned proceeding.¹

The Companies are supportive of the general principles outlined in National Broadband Plan,² which provides goals for making broadband services more accessible for people living in insular, high-cost areas, and for low-income populations. As the Commission undertakes comprehensive reform of the Universal Service Fund (“USF”) and implements Plan recommendations, the Companies are encouraged that the Commission is seeking ways to

¹ *Connect America Fund, A National Broadband Plan for Our Future, High-Cost Universal Service Support*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 05-337, Notice of Inquiry and Notice of Proposed Rulemaking, FCC 10-58, 2010 WL 1638319, rel. Apr. 21, 2010 (“*NOI* and *NPRM*”).

² Omnibus Broadband Initiative, FCC, Connecting America: The National Broadband Plan (Mar. 16, 2010) (“NBP” or “Plan”).

increase telephone subscribership and ensure that high-quality voice and broadband services are available in all insular areas. The Companies also appreciate the Commission's effort to invite submissions on the "unique circumstances in insular areas that would necessitate a different approach," as there are indeed unique challenges in insular areas that affect the subscribership levels and affordability of telecommunications service.³

The circumstances in insular areas are far different than in the United States mainland and, therefore, must be treated differently when it comes to USF reform. Accordingly, any USF reform efforts considered by the Commission should significantly enhance high-cost support to wireless carriers serving insular areas or, at a minimum, continue to provide the existing levels of high-cost support until such time as there is reliable evidence that the quality of service and choices in telecommunications providers in the Territories is comparable to those on the U.S. mainland. As described more fully herein, the Companies propose that the Commission remove the CETC cap and restore USF high-cost support funding to pre-March 2008 levels for all wireless carriers serving insular areas.

I. BACKGROUND

BlueSky is a CMRS provider and Eligible Telecommunications Carrier ("ETC") that operates a 100% digital wireless GSM mobile wireless network covering American Samoa. BlueSky has been serving the territory of American Samoa for over 10 years, and was designated as an ETC by the American Samoa Telecommunications Authority in 2006. BlueSky is headquartered in Pago Pago.

Choice Communications is a recently designated ETC in the U.S. Virgin Islands ("USVI") and is building a network to bring high-quality service and more choices to USVI

³ *NOI and NPRM* at ¶¶13 and 50.

residents and businesses. Choice is headquartered in St. Thomas and has retail locations in Havensight, St. Thomas and Christiansted, St. Croix.

PR Wireless is a CMRS provider and ETC in Puerto Rico doing business under the Open Mobile brand. The company has been eligible for support from the High Cost and Low Income Programs of the federal Universal Service Fund (“USF”) since 2007. The company is a leader in utilizing federal high-cost support to make wireless telephone service accessible in rural, high-cost areas, and affordable to low-income citizens.

The insular areas, including the territories of American Samoa, Puerto Rico, and USVI, as well as Guam and the Commonwealth of the Northern Mariana Islands (collectively referred to herein as the “Territories”), present unique challenges in the provision of telephone service. The unique geographic, economic and social characteristics present in the Territories result in significantly higher costs in providing telecommunications service and the islands have telephone penetration figures that lag far behind that of the mainland U.S. Accordingly, any USF reform efforts considered by the Commission should significantly enhance high-cost support to wireless carriers serving insular areas or, at a minimum, continue to provide the existing levels of high-cost support until such time as there is reliable evidence that the quality of service and choices in telecommunications providers in the Territories is comparable to those on the U.S. mainland.

II. DISCUSSION

A. Substantial and Unique Challenges in Insular Areas Necessitate an Alternate USE High-Cost Reform Approach

1. Geographic and Climatic Obstacles

The Territories are all geographically isolated islands located in the Caribbean and South Pacific, far from the United States mainland. As a result, transport costs are much greater for businesses in the Territories because all the supplies necessary for creating and maintaining a telecommunications infrastructure must be shipped, stored and provided at an added expense. In addition, the topography of all three Territories includes rough, hilly terrain, producing higher than average construction and operational costs associated with telecommunications equipment. The difficult terrain in sparsely populated inland areas results in “telecommunications transmission facilities requir[ing] additional guying and anchoring and the distances between points [being] increased.”⁴

American Samoa frequently experiences tropical cyclones, earthquakes and even tsunamis because of its positioning in the South Pacific Ocean. In 2009, an 8.1 magnitude earthquake produced a devastating tsunami in American Samoa. Puerto Rico and the USVI lie at the boundary between the Caribbean and North American plates, which also produces earthquakes and tsunamis. Puerto Rico and the USVI also experience hurricane season annually, for approximately 5 months out of the year.

⁴ See Puerto Rico Telephone Company Petition for Reconsideration, WC Docket No. 05-337, CC Docket No. 96-45, WC Docket No. 03-109 at 17 (“PRTC Petition”). According to GTA Telecom, it is not uncommon for construction costs for basic telephone service in Guam to run over \$1,000 per customer because of the need to bury infrastructure to insure that telephone service remains available during and after typhoons. See Comments of GTA Telecom LLC, WC Docket No. 03-109, at 1.

The severe tropical weather in the Caribbean and South Pacific often requires frequent reconstruction of existing telecommunications infrastructure due to storm and hurricane damage. Because the diameter of a storm can measure over one hundred miles, a storm does not have to pass directly over an island to cause damage. In addition, seawater and humidity inherent in tropical climates are “corrosive and inhospitable to telecommunications equipment,” leading to accelerated deterioration of equipment, and higher operational costs associated with the climate of the Territories.⁵ As a result, the Territories experience unique and extraordinary high costs associated with building and maintaining telecommunications infrastructure.

2. Weak, Single-industry Economies and High Unemployment

The most recent U.S. Census data paint a compelling picture for the declining economy in American Samoa. From 2002 to 2007, American Samoa’s GDP grew at an average annual rate of 0.4%, compared to an annual rate of 2.8% in the United States (excluding the territories).⁶ Federal data show that median annual inflation-adjusted earnings in American Samoa declined by approximately 6% from 2006 to 2008.⁷ The economic situation has become more acute of late due to the September 2009 closure of a tuna cannery owned by Chicken of the Sea, resulting in the loss of more than 2,000 jobs.⁸ More recently, StarKist Co. announced that it will be reducing its American

⁵ PRTC Petition at 17-18.

⁶ News Release, “The Bureau of Economic Analysis (BEA) Releases Estimates of Gross Domestic Product for American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands” (May 5, 2010).

⁷ American Samoa and Commonwealth of the Northern Mariana Islands: Wages, Employment, Employer Actions, Earnings, and Worker Views Since Minimum Wage Increases Began (United States Government Accountability Office, April 2010).

⁸ Fili Sagapolutele, “COS Samoa Packing Announces Sept. 30 Shut Down With More Than 2,000 Jobs Affected,” Samoa News Online (May 2009).

Samoa workforce by 600-800 positions.⁹ The resulting reductions will reduce the company's territorial employment from its high of more than 3,000 in 2008 to less than 1,200 workers.¹⁰ The combined workforce reductions, amounting to 3,800 jobs, comprise over 20% of the total American Samoa workforce.¹¹

In Puerto Rico, a persistent four-year recession has increased chronic unemployment to a staggering rate of 17.2%, well above the 9.9% unemployment rate on the mainland.¹² The island government has struggled to deliver essential services as a result of the economic decline, and after the loss of special tax incentives for U.S. firms operating in Puerto Rico as a result of its commonwealth status, many Puerto Ricans believe that the Commonwealth has lost its ability to support economic growth.¹³

The economic situation in the USVI is also continuing to worsen. With tourism as the primary industry, the total number of visitors in 2009 was down 13.1% from 2008.¹⁴ While the U.S. mainland economy has begun to emerge from the downturn, USVI is expected to lag behind the mainland as it pulls out of its own recession.¹⁵

Economic and particular business conditions typically become obstacles for the adoption of new technologies. The recent financial crisis experienced in the insular areas – a crisis far worse than experienced on the U.S. mainland – has pushed many companies to delay their

⁹ StarKist Press Release, “StarKist to Make Significant Additional Job Reductions in American Samoa” (May 13, 2010).

¹⁰ *Id.*

¹¹ Source: CIA World Factbook at <https://www.cia.gov/library/publications/the-world-factbook/geos/aq.html>.

¹² Bureau of Labor Statistics, United States Economy at a Glance, accessed at www.bls.gov/eag/eag.us.htm.

¹³ White House Task Force Hears Puerto Rico Grievances, Reuters, March 3, 2010, accessed at <http://www.reuters.com/article/idUSTRE6225HU20100303>.

¹⁴ Source: U.S. Virgin Islands 2009 Economic Review and 2010 Outlook (US Bureau of Economic Research, Oct. 2009) at p. 4.

¹⁵ *Id.* at 3.

investment plan in new technologies, and instead dedicate their limited resources to support core business and basic wireless service. With the focus on broadband as a foundation for economic growth,¹⁶ it is clear that economies in insular areas cannot thrive without increased high-cost funding to support the deployment of broadband facilities. Economies in crisis, such as those in the Territories, would especially benefit from investment in broadband infrastructure because of the associated job creation, economic multiplier effects, and global competitiveness it produces.

3. Extremely Low-Income Populations and Pervasive Poverty

People in the Territories also have very low incomes compared to those living in the mainland United States rendering even basic telecommunications services unaffordable. The median income for households in the USVI is \$34,983,¹⁷ for households in Puerto Rico is \$18,610,¹⁸ compared to a median income of \$52,175 for all households in the United States.¹⁹ Per capita income in the USVI is \$19,787,²⁰ in Puerto Rico is \$10,064, compared to \$27,466 for the United States overall.²¹

In American Samoa, incomes levels are even farther behind those in the mainland United States. According to the Census, 61.0% of the population of American Samoa had incomes below

¹⁶See Plan at ix.

¹⁷ Source: 2007 Virgin Islands Community Survey, Eastern Caribbean Center, University of the Virgin Islands. The median income in the USVI is approximately 33% less than the median income for all households in the U.S.

¹⁸ U.S. Census Bureau, 2006-2008 American Community Survey 3-Year Estimates, Social Characteristics and Table S1901.

¹⁹ U.S. Census Bureau, 2006-2008 American Community Survey 3-Year Estimates, Table S1901. Per capital income in the USVI is approximately 28% less than in the United States overall.

²⁰ United States Virgin Islands Business Opportunities Report, United States Dept. of Interior, Office of Insular Affairs (2008) at p. 5.

²¹ U.S. Census Bureau, 2006-2008 American Community Survey 3-Year Estimates, Social Characteristics.

the poverty level in 1999.²² In Puerto Rico, 41.4 % of all families are below the poverty line, and 49.6 % -- approximately half -- of families with related children under 18 are below the poverty line. In the USVI, 23.8% of all families are below the poverty level, more than double the percentage in the United States as a whole (9.6%).²³ In addition, these low income levels are exacerbated by the exceptionally high cost of living in the Territories.²⁴

These tremendously low income levels and pervasive poverty in the insular areas create inequalities in access and affordability of voice and broadband service. These services are often needed for jobs, education, and even news. Limitations on access to modern telecommunications infrastructure severely limit lower income populations, making it more difficult to advance in society.²⁵

B. The Commission's Universal Service Policies for Insular Areas have Fallen Short of the Commission's Statutory Mandate

Section 254 of the Communications Act, as amended (the "Act"), provides that "[c]onsumers in all regions of the Nation, including... those in... insular... areas, should have access to telecommunications and information services...that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to

²² See U.S. Census Bureau, Table PBG79, Poverty Status in 1999 by Age, Data Set: American Samoa Summary File.

²³ U.S. Census Bureau, 2006-2008 American Community Survey 3-Year Estimates, Table S1702.

²⁴ See e.g., http://www.vimovingcenter.com/cost_of_living/ ("Recent documents published by the Virgin Islands Legislature estimated that the cost of living in the Virgin Islands is on average 33% higher than most US jurisdictions.").

²⁵ It is for many of these same reasons that each of the commenters is also seeking enhanced Lifeline and Link Up support in the Territories. See Joint Reply Comments of Choice Communications, LLC and AST Telecom d/b/a BlueSky Communications, WC Docket No. 05-337, CC Docket No. 96-45, WC Docket No. 03-109 (filed June 21, 2010); Comments of PR Wireless, WC Docket No. 03-109 (filed June 7, 2010); Reply Comments of PR Wireless, WC Docket No. 05-337, CC Docket No. 96-45, WC Docket No. 03-109 (filed June 21, 2010).

rates charged for similar services in urban areas.”²⁶ In addition, the Commission has historically used low subscribership levels in its assessment of success at making telephone service available to low-income households.²⁷ The unique geographic, economic and social challenges faced in insular areas continue to produce consistently low subscriber levels in all of the Territories, resulting in unavailable or high-cost telecommunication service – a status clearly at odds with the Commission’s statutory objective.

The Commission has recognized several times over the last decade that telephone subscriber levels in insular areas are generally lower than the national average, because of “income disparity and the unique challenges these areas face by virtue of their locations,” and has even acknowledged that it could be doing more to make service affordable.²⁸ Nevertheless, the Commission has abstained from adopting any specific measures to abate the discrepancies in availability and affordability of telecommunications service in insular areas and, thus far, has excluded insular areas from receiving additional universal service support. In one instance, the Commission reasoned that “addressing all low subscribership issues for all unserved or underserved populations simultaneously might unnecessarily delay action on behalf of those who are least served,”²⁹ and in another instance claimed it had met its obligations by ensuring that

²⁶ 47 U.S.C. §254(b)(3).

²⁷ See *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, ¶¶ 110-112 (1997) (“*Universal Service Order*”).

²⁸ *Id.* at 8776, ¶ 112; see also *Federal-State Joint Board on Universal Service: Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, Further Notice of Proposed Rulemaking, CC Docket No. 96-45, 14 FCC Rcd 21177, ¶ 5 (1999); and *Federal-State Joint Board on Universal Service, High-Cost Universal Service Support*, CC Docket No. 96-45, WC Docket No. 05-337, Notice of Proposed Rulemaking, 20 FCC Rcd 19731, ¶ 33 (2005).

²⁹ See *Federal-State Joint Board on Universal Service: Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC 12208, ¶ 33 (2000) (“*Twelfth Report and Order*”).

“carriers in insular areas are eligible for generally applicable support mechanisms.”³⁰

Unfortunately, these decisions have inhibited insular area advancement, resulting in significantly lower subscriber penetration rates in the Territories than in the mainland U.S.

1. Subscriber Penetration Levels Significantly Behind U.S. Mainland

With income levels lagging considerably behind the mainland United States, access to wireless telephone service in insular areas is also staggeringly behind. Wireless penetration in the USVI is only 71.18%,³¹ and, based on USAC data, total wireless subscribership in American Samoa is just 67.4% of the overall population.³² These rates trail far behind the U.S. wireless penetration rate of 90% (based on 2008 figures).³³

Puerto Rico also has unacceptably low wireline penetration levels, which clearly demonstrates insufficient access to voice and broadband services. While the Commission’s recent calculation of a penetration rate of 91.9 percent was arguably based on faulty data, even if it is taken at face value, Puerto Rico is still considerably behind the U.S. mainland penetration rate of 98.2 percent.³⁴ As noted by PRTC, the artificial increase from 73.8 percent in 2005 to 91.9 percent in 2008, correlates with the U.S. Census questionnaire change in 2008³⁵ to include

³⁰ *High Cost Universal Service Support, Federal-State Joint Board on Universal Service, Lifeline and Link-Up*, WC Docket No. 05-337, CC Docket No. 96-45, Order and Notice of Proposed Rulemaking, 25 FCC Rcd 4136, ¶ 25 (2010) (“PRTC Order” or “Low Income NPRM”).

³¹ Source: CIA World Factbook at <https://www.cia.gov/library/publications/the-world-factbook/geos/vq.html>.

³² Wireless subscribership data as of December 31, 2008, obtained from USAC Fourth Quarter Appendices, 2009, Appendix HC18 (CETC Reported Lines by Incumbent Study Area – High Cost Loop Support – 4Q2009).

³³ *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions with Respect to Mobile Wireless, Including Commercial Mobile Services*, WT Docket No. 09-66, Fourteenth Report (rel. May 20, 2010) at ¶ 155.

³⁴ See PR Wireless Comments, WC Docket No. 03-109, at 4; PRTC Petition at p. 13.

³⁵ See 2008 Puerto Rico Community Survey, accessed at <http://www.census.gov/acs/www/Downloads/Special/PRico/QuestE08PR.pdf>.

consideration of cell phones.³⁶ In 2007, only around 80 percent of households had telephone service.³⁷ The “jump” up to 91.9 percent in a single year was due largely, if not entirely, to the change in survey methodology. In fact, line count data for Puerto Rico compiled by the Universal Service Administrative Company (“USAC”) show that the growth in the total number of lines in use (both wireline and wireless) from 2007 to 2008 was only 1.54 percent.³⁸ This level of growth contradicts the Commission’s conclusion regarding the level of overall telephone penetration in 2008, and suggests the penetration levels in Puerto Rico are actually considerably lower. Broadband subscribership is also extremely low in the Territories. As of December 2008, only 24% of households in Puerto Rico subscribed to high-speed Internet access connections,³⁹ 34% of households in USVI,⁴⁰ compared with more than 60% across the rest of the United States.⁴¹

2. Disparity in Statistical Data

Many of the same geographic, economic and social considerations preventing access and affordability of telecommunication service in insular areas makes it difficult to effectively survey

³⁶ See PRTC Petition at p. 13.

³⁷ 2007 American Community Survey 1-Year Estimates, Puerto Rico Community Survey, Data Set C25043 (Tenure by Telephone Service Available).

³⁸ This calculation was derived utilizing data collected and published by USAC. See USAC Fourth Quarter Appendices – 2008, Appendix HC19 (CETC Reported Lines by Incumbent Study Area – Interstate Common Line Support); USAC Fourth Quarter Appendices – 2009, Appendix HC19 (CETC Reported Lines by Incumbent Study Area – Interstate Common Line Support).

³⁹ See PR Wireless Reply Comments, WC Docket No. 05-337, WC Docket No. 96-45, WC Docket No. 03-109, at 6; see also Industry Analysis and Competition Division, Wireline Competition Bureau, *High-Speed Services for Internet Access: Status as of December 31, 2008*, at Table 21 (Residential Fixed High-Speed Connections and Households by State as of December 31, 2008) (Feb. 2010), available at www.hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-296239A1.pdf.

⁴⁰ See Industry Analysis and Competition Division, Wireline Competition Bureau, *High-Speed Services for Internet Access: Status as of December 31, 2008*, at Table 21.

⁴¹ *Id.*

the population in those same Territories, particularly the lowest income areas, and therefore, penetration levels are more than likely overstated in the existing statistical data. The Territories must nonetheless rely on this inaccurate data because they do not have the same mechanisms the mainland U.S. has to accurately and systematically collect statistical data.⁴² While the specific subscriber figures do not provide a true representation of the telephone penetration levels in insular areas, they at least provide a glimpse into the sizable deviation from the penetration levels in the United States.

The Commission currently relies on the Federal and State Joint Board's Annual Monitoring Report ("Monitoring Report"), which utilizes the Current Population Survey ("CPS") to uniformly determine the telephone penetration levels, among other things, of the 50 states and the District of Columbia. The CPS, however, does not cover outlying areas that are not states, such as Puerto Rico, Guam, American Samoa, the USVI, and the Northern Mariana Islands.⁴³ Accordingly, significant telephone penetration level data disparities exist for comparison purposes between the mainland U.S. and the Territories because of the lack of uniform and comprehensive data collection methodology.⁴⁴ The Monitoring Report even indicates that the results of the CPS cannot be directly compared with the penetration figures contained in the 1980, 1990, and 2000 decennial censuses or the American Community Survey because of

⁴² See Testimony of Dr. Frank Mills, *Joint Hearing, Information Policy, Census and National Archives Subcommittee Oversight and Government Reform Committee, Committee on Natural Resources Subcommittee on Insular Affairs*, May 21, 2008, discussing generally USVI's efforts to obtain statutory language requiring the Census Bureau to include the USVI in the CPS or American Community Survey so that its communities could be more appropriately recognized and ensure their fair share of government and business funding.

⁴³ 2009 Federal-State Joint Board Monitoring Report at 6-4, accessed at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-295442A8.pdf ("Monitoring Report").

⁴⁴ Puerto Rico is the only Territory that participates in the annual American Community Survey also used on the mainland U.S., but this is not updated as frequently and, therefore, is not as widely used for subscriber penetration comparisons.

differences in sampling techniques, survey methodologies, and the context in which the survey questions were asked.⁴⁵

Thus, while Congress and other federal agencies lie at the center of resolving the problems inherent in the existing statistical data collection mechanisms, the Commission should take this opportunity to unequivocally recognize and address this problematic issue -- insular areas are among the nation's most underserved populations and will remain so without meaningful universal service support.

C. USF Reform in the Context of the National Broadband Plan Should Acknowledge That Investment in Broadband Infrastructure Will Necessarily Compliment Existing Core Networks

In insular areas, where the geographic, economic and social conditions lead to extreme infrastructure costs and low penetration rates, high-cost support becomes essential to maintain at least the basic wireless networks and to close the gap of telephone penetration. An approach to immediately accelerate investment in broadband would be to permit eligible wireless carriers to invest high-cost support in broadband infrastructure that also compliments the maintenance and support of existing networks.

In particular, network operation and maintenance costs appear to be noticeably absent from the Commission's inquiry relating to wireless services, even though the federal statute makes clear that high-cost support is intended "*for the provision, maintenance and upgrading of facilities and services.*"⁴⁶ Moreover, as carriers invest in more cell sites and wireless infrastructure to cover unserved areas, it translates into more capacity needed for their switch

⁴⁵ See Monitoring Report at 6-4.

⁴⁶ See 47 U.S.C. § 254(e); 47 C.F.R. § 54.7.

rooms and transmission facilities which, in turn, represents additional network upgrade and maintenance costs.

For example, if PR Wireless were to invest in wireless broadband at the end of 2010, it would in turn require approximately double the amount of additional capital to upgrade and enhance coverage of its core network. In addition, already budgeted network maintenance and operating costs would require tens of millions of dollars of additional capital. In total, the 2010 outlays for construction, maintenance and upgrading would be an enormous expense. The USF estimated high-cost support that PR Wireless anticipates in 2010 is estimated at approximately \$14 million, far short of the amount needed to bring wireless broadband to Puerto Rico. However, the support should allow PR Wireless to construct dozens of new cell sites for broadband deployment, of which approximately one-half would be dedicated to unserved or underserved insular areas. In short, available high-cost support provides a critical part of PR Wireless' network budget which the company uses to leverage additional investments.

D. The Commission Should Adopt an Alternative USF High-Cost Reform Approach for Insular Areas by Removing the CETC Cap on High-Cost Support

Approximately two years ago, the Commission adopted temporary measures to cap total annual high-cost universal service support for Competitive Eligible Telecommunications Carriers ("CETCs") at the level of support that they were eligible to receive in each state and territory during March 2008 ("Cap").⁴⁷ The Cap has harmed, and continues to harm, consumers in insular areas by unduly interfering with the ability of wireless CETCs to deploy infrastructure and deliver voice and broadband service. Accordingly, the Companies propose that the

⁴⁷ See *High Cost Universal Support, Federal-State Joint Board on Universal Service*, WC Docket 05-337, CC Docket 95-46, 20 FCC Rcd 8834, ¶ 1(2008) ("Interim Cap Order").

Commission provide an exemption for wireless carriers serving insular areas so that high-cost support can be restored in the Territories to pre-March 2008 levels.

1. The Cap's Harmful Effects Exacerbate the Need for Support in Insular Areas

As the Cap limits funding, the Companies are finding it increasingly difficult to maintain efforts to deploy wireless infrastructure and bring services to all consumers in insular areas. In addition, the need for action by the Commission is made even more imperative by the fact that the interim cap represents an anomalous and unproductive contraction of federal support at a time when the health of the Territories urgently needs the stimulus that can be provided by an expansion of critical telecommunications infrastructure in insular areas. In addition, and as described *supra*, the insular areas face unique geographic, economic and social challenges above and beyond that of other areas. The harm that the CETC “interim” cap is causing to insular areas will continue to get worse as long as it remains in place.

2. The Commission's Previous Exception for Tribal Lands Should be Extended to Insular Areas

In the *Twelfth Report and Order*, the Commission adopted measures to provide USF support for tribal lands on the basis of low telephone penetration levels and unique demographic characteristics.⁴⁸ In the *Interim Order*, the Commission carved out an exemption for CETCs that serve tribal lands using a much more limited basis. Specifically, the Commission relied on the

⁴⁸ *Twelfth Report and Order* at ¶ 32. The Commission concluded that (1) the lack of basic infrastructure; (2) low-income and few business subscribers; (3) cultural and language barriers; (4) access to rights of way; and (5) jurisdictional issues, warranted special USF support.

fact that tribal lands continue to have low penetration rates for basic telephone service, which therefore meant that wireless and wireline services were not necessarily complementary.⁴⁹

There are significant unique circumstances in insular areas regarding the high-cost of telecommunications infrastructure, the dire economy and low-income population, as well as extremely low subscriber levels that merit a similar exemption for the Territories. The insular areas need additional high-cost support, not only sustain existing service, but to improve penetration levels. Carving out an exemption for wireless carriers in insular areas by restoring high-cost support to pre-March 2008 levels would provide the Territories with the funds needed to greatly improve service to unserved and underserved areas.

It is important to note, that while the Commission observed that low subscribership levels in certain insular areas appeared largely to be due to low-income levels, problems purportedly better addressed through low-income programs such as Lifeline and Link-Up, the Companies believe that the Commission has always considered the combination of high-cost and low-income support mechanisms to adequately provide unserved and underserved areas with the needed support. Accordingly, as noted earlier, the Companies have also submitted comments regarding the appropriate low income support devices.⁵⁰

⁴⁹ *Interim Order* at ¶ 32. The footnote further concludes that existing universal support mechanisms are not adequate to sustain telephone subscribership on tribal lands.

⁵⁰ See Joint Reply Comments of Choice Communications, LLC and AST Telecom d/b/a BlueSky Communications, WC Docket No. 05-337, CC Docket No. 96-45, WC Docket No. 03-109 (filed June 21, 2010); Comments of PR Wireless, WC Docket No. 03-109 (filed June 7, 2010); Reply Comments of PR Wireless, WC Docket No. 05-337, CC Docket No. 96-45, WC Docket No. 03-109 (filed June 21, 2010).

III. CONCLUSION

The Companies fully appreciate the Commission's efforts in opening a comment process to consider ways to address the unique circumstances in insular areas. In order to fulfill the obligations of Section 254 of the Act, USF funding policies must take in consideration the particular and special situations faced in insular areas.

The Companies are encouraged that the Commission is open to remedying its long-standing omission of not providing specific support to insular areas and with the current inquiry in the *NOI and NPRM*, as well as the recent promise to "increase telephone subscribership rates... and... ensure that high-quality voice and broadband services are available in insular areas" as part of a comprehensive plan to reform USF.⁵¹ The Companies sincerely hope that the Commission uses this opportunity to carve out an exemption for wireless CETCs serving insular areas to receive pre-March 2008 levels of high-cost support. Without increased high-cost support, the Territories will likely never realize the same level of access to voice and broadband service that is available in urban areas on the mainland U.S.

For all of the reasons set forth above, the Companies request that the Commission adopt the proposal described herein for all insular areas.

⁵¹ *PRTC Order* at ¶ 2.

Respectfully submitted,

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